

Remarks

Claims 1-7, 11-36 are pending.

Claims 1-7, 13-24, and 30-34 have been amended.

Claims 8-10, and 37-49 are canceled.

Applicant has amended independent claims 1, 16, and 24 to further distinguish the claimed invention from the cited references based on the Office action. Other claims have been amended to make formal changes.

With regard to the rejections under 35 USC §112, Applicant has amended the claims. Regarding the rejection relating to the “remote”, Applicant respectfully asserts that the term “remote” is used consistent with the application as originally filed to indicate that the remote station is removed or placed separated or “remote” from the other components. This has nothing to do with a “remote control” as suggested in the Office action.

All of the rejections set forth in the Office action, including rejections under 35 USC §102 and 35 USC §103, depend on Chung as a primary reference. In this regard, independent claims 1, 16 and 24 have been amended to further distinguish the claimed invention from the device and teachings of Chung.

In this regard, Chung does not teach an active controllably energizable heater which provides intermittent on and off control of the heating device. Such intermittent on and off heating control may be identified as “pulsing”. Further, the Chung device does not appreciate “ramping up” or “ramping down” of temperatures. Chung merely provides an upper and lower temperature. Chung allows the temperature to fluctuate between the upper level limit and the lower level limit but does not appreciate controlled energization such as ramping up or ramping down. None of the additionally cited references provide the missing limitations as set forth in claims

With the foregoing in mind, Applicant respectfully asserts that Chung does not provide each and every element as set forth in the claims as required by 35 USC §102.

With regard to the rejection under 35 U.S.C. §102, it is well settled, anticipation requires “identity of invention.” *Glaverbel Societe Anonyme v. Northlake Manufacture Mktg. & Supply*,

33 USPQ2d 1496, 1498 (Fed. Cir. 1995). Each and every element recited in a claim must be found in a particular prior art reference and arranged as in the claims. *In re Marshall*, 198 USPQ 344, 346 (CCPA 1978); *Lindemann Maschinenfabrik GMBH*, see *American Hoist and Derrick Company*, 221 USPQ 481, 485 (Fed. Cir. 1984). Furthermore, in a rejection under 35 U.S.C. §102(b) there must be no difference between what is claimed and what is disclosed in the applied reference. *In re Kalm*, 154 USPQ 10, 12 (CCPA 1967); *Scripps v. Genentech Inc.*, 18 USPQ2d 1001,1010 (Fed. Cir. 1991).

Applicant respectfully requests the Examiner withdraw the rejection under 35 USC §102 and pass the claims to allowance.

Applicant respectfully asserts that Chung does not provide the primary support required to support a rejection under 35 USC §103. As noted above, Chung fails to provide each and every limitation as required under 35 USC §103. Further, the additional references cited in the Office Action in combination with Chung do not provide the additional limitations missing from Chung. As such, each of the rejections under 35 USC §103 is lacking since Chung fails as a primary reference.

With regard to the rejections under 35 U.S.C. §103(a), it is respectfully submitted that Applicants' claims are patentable, as the rejections and cited references fail to establish a *prima facie* case of obviousness. According to Section 706.02 (j) of the MPEP the Examiner must meet three basic criteria to establish a *prima facie* case of obviousness:

- (1) first, there must be some reasonable suggestion or motivation in the prior art to modify the reference or to combine the reference teachings;
- (2) second, there must be reasonable expectation of success in obtaining the claimed invention based upon the references relied upon by the Examiner; and
- (3) third, the prior art reference (or references when combined) must teach or suggest all of the claimed limitations.

MPEP Section 706.02(j) further requires that the teaching or suggestion to make the modification or reference combination and the expectation of success, must be found in the prior art, and may not be based upon the Applicants' disclosure.

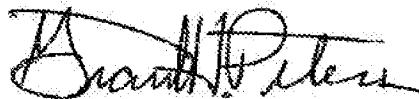
With the foregoing in mind, Applicant respectfully asserts that the rejections under 35 USC §103 fail since Chung does not include all of the limitations either alone or in combination with the additionally cited references. Applicant respectfully requests that the Examiner withdraw all of the rejections under 35 USC §103 and pass the claims to allowance.

The application is considered in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

It is requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time sufficient to effect a timely response with the fee for such extensions and any other fees or shortages in other fees, being charged, or any overpayment in such fees being credited, to the Deposit Account of Barnes & Thornburg LLP, Deposit Account No. 12-0913 acknowledging attorney docket no. (27726-98311).

Respectfully submitted,

BARNES & THORNBURG LLP



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